

Article 17.

North Carolina Reciprocal Interstate Banking Act.

§ 53-209. Title.

This Article shall be known and may be cited as the North Carolina Reciprocal Interstate Banking Act. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 7; 1993 (Reg. Sess., 1994), c. 599, s. 1.)

§ 53-210. Definitions.

Notwithstanding any other section of this Chapter, for the purposes of this Article:

- (1) "Acquire" means:
 - a. The merger or consolidation of one bank holding company with another bank holding company;
 - b. The acquisition by a bank holding company of direct or indirect ownership or control of voting shares of another bank holding company or a bank, if, after such acquisition, the bank holding company making the acquisition will directly or indirectly own or control more than five percent (5%) of any class of voting shares of the other bank holding company or the bank;
 - c. The direct or indirect acquisition by a bank holding company of all or substantially all of the assets of another bank holding company or of a bank; or
 - d. Any other action that would result in direct or indirect control by a bank holding company of another bank holding company or a bank.
- (2) "Bank" has the meaning set forth in Section 2(c) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(c)).
- (3) "Banking office" means the principal office of a bank, any branch of a bank, any limited service facility of a bank or any other office at which a bank accepts deposits: Provided, however, that "banking office" shall not mean:
 - a. Unmanned automatic teller machines, point of sale terminals or other similar unmanned electronic banking facilities at which deposits may be accepted;
 - b. Offices located outside the United States; or
 - c. Loan production offices, representative offices or other offices at which deposits are not accepted.
- (4) "Bank holding company" has the meaning set forth in Section 2(a)(1) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(a)(1)).
- (5) "Commissioner" means the Commissioner of Banks of this State.
- (6) "Control" has the meaning set forth in Section 2(a)(2) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(a)(2)).
- (7) "Deposits" means all demand, time, and savings deposits, without regard to the location of the depositor. For purposes of this Article, determination of deposits shall be made with reference to the most recent available regulatory reports of condition or similar reports made by or to state and federal regulatory authorities.
- (8) "North Carolina bank" means a bank that:

- a. Is organized under the laws of this State or of the United States; and
- b. Has banking offices located only in this State.
- (9) "North Carolina bank holding company" means a bank holding company:
 - a. That has its principal place of business in this State; and
 - b. Repealed by Session Laws 1993, c. 175, s. 8.
 - c. That is not controlled by a bank holding company other than a North Carolina bank holding company.
- (9a) "Out-of-state bank holding company" means a bank holding company that has its principal place of business in a state other than North Carolina.
- (10) "Principal place of business" of a bank holding company means the state in which the total deposits held by the banking offices of the bank holding company's bank subsidiaries were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.
- (11) through (13) Repealed by Session Laws 1993, c. 175, s. 8.
- (14) "State" means any state of the United States or the District of Columbia.
- (15) "Subsidiary" has the meaning set forth in Section 2(d) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(d)). (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1985 (Reg. Sess., 1986), c. 862; 1987 (Reg. Sess., 1988), c. 899; 1993, c. 175, ss. 1, 8; 1993 (Reg. Sess., 1994), c. 599, s. 1.)

§ 53-211. Acquisitions by out-of-state bank holding companies.

(a) An out-of-state bank holding company that does not have a North Carolina bank subsidiary, other than a North Carolina bank subsidiary that was acquired in a transaction involving assistance by the Federal Deposit Insurance Corporation or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a)), may acquire a North Carolina bank holding company or a North Carolina bank with the approval of the Commissioner. The out-of-state bank holding company shall submit to the Commissioner an application for approval of such acquisition, which application shall be approved only if the Commissioner determines that the laws of the state in which the out-of-state bank holding company making the acquisition has its principal place of business permit North Carolina bank holding companies to acquire banks and bank holding companies in that state. Additionally, the Commissioner shall make the acquisition subject to any conditions, restrictions, requirements, or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the state where the out-of-state bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all of the subsidiaries of which are located in that state. The applicant shall submit an application fee of five thousand dollars (\$5,000) plus two thousand dollars (\$2,000) for each North Carolina bank or bank holding company being acquired.

(b) An out-of-state bank holding company that has a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired in a transaction involving assistance by the Federal Deposit Insurance Corporation or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a))), may acquire any North Carolina bank or North Carolina bank holding company with the approval of the Commissioner. The out-of-state bank holding company shall submit to the Commissioner an application for approval of such acquisition, which

application shall be approved only if the Commissioner makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the state where the out-of-state bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all the bank subsidiaries of which are located in that state.

(c) The Commissioner shall rule on any application submitted under this section not later than 90 days following the date of submission of a complete application. If the Commissioner fails to rule on the application within the requisite 90-day period, the failure to rule shall be deemed a final decision of the Commissioner approving the application.

(d) The Commissioner, within 30 days of receiving the complete application for acquisition, shall publish notice of the intent of an out-of-state bank holding company to acquire a North Carolina bank or North Carolina bank holding company under subsection (a) or (b) of this section. The notice shall be published in newspapers in the communities in which the principal offices of the North Carolina bank or North Carolina bank holding company and of the out-of-state bank holding company are located and, if there are no newspapers published in such communities, then in newspapers having a general circulation in such communities. Notwithstanding any other provision of this section, the application for acquisition shall not be approved until the requirement for publication has been met. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1987 (Reg. Sess., 1988), c. 898, ss. 1, 2; 1989, c. 9, s. 2, c. 471; 1993, c. 175, ss. 2, 9; 1993 (Reg. Sess., 1994), c. 599, ss. 1, 3.)

§ 53-212: Repealed by Session Laws 1993, c. 175, s. 10, as amended by Session Laws 1993 (Regular Session, 1994), c. 599, s. 1.

§ 53-212.1. Bank agent for deposit institution affiliate.

A bank may act as the agent of any depository institution affiliate in receiving deposits, renewing time deposits, closing loans, servicing loans, and receiving payments on loans and other obligations, without being deemed a branch of such affiliate, in accordance with Section 101(d) of the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994. An affiliate for the purposes of this section shall include (i) an affiliate as defined in Section 2(k) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841(k)), and (ii) an affiliate as defined in Section 23A(b)(1) of the Federal Reserve Act, as amended (12 U.S.C. § 371c(b)(1)), but without regard to whether the bank or the affiliate is a member of the Federal Reserve System. (1995 (Reg. Sess., 1996), c. 557, s. 1; 1997-241, s. 2.1; 1997-456, s. 39.)

§ 53-213. Prohibitions.

(a) Except as expressly permitted by this Article or by federal law, no out-of-state bank holding company shall acquire a North Carolina bank holding company or a North Carolina bank.

(b) Repealed by Session Laws 1993, c. 175, s. 11. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 11; 1993 (Reg. Sess., 1994), c. 599, s. 1.)

§ 53-214. Applicable laws, rules and regulations.

(a) Any North Carolina bank that is controlled by a bank holding company that is not a North Carolina bank holding company shall be subject to all laws of this State and all rules and regulations under such laws that are applicable to North Carolina banks that are controlled by North Carolina bank holding companies.

(b) The State Banking Commission shall adopt rules to implement and effectuate the provisions of this Article. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 4; 1993 (Reg. Sess., 1994), c. 599, s. 2.)

§ 53-215. Appeal of Commissioner's decision.

Any aggrieved party in a proceeding under G.S. 53-211, 53C-10-102, or 53C-10-201 may, within 20 days after final decision of the Commissioner, appeal in writing any decision to the State Banking Commission. An appeal under this section shall be made pursuant to G.S. 53C-2-6. Notwithstanding any other provision of law, any aggrieved party to a decision of the State Banking Commission shall be entitled to petition for judicial review pursuant to G.S. 53C-2-6. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1985, c. 683, s. 3; 1993, c. 175, ss. 5, 12; 1993 (Reg. Sess., 1994), c. 599, s. 1; 2009-57, s. 4; 2012-56, s. 15.)

§ 53-216. Periodic reports; interstate agreements.

The Commissioner may from time to time require reports under oath in such scope and detail as he may reasonably determine of each out-of-state bank holding company subject to this Article for the purpose of assuring continuing compliance with the provisions of this Article.

The Commissioner may enter into cooperative agreements with other bank regulatory authorities for the periodic examination of any out-of-state bank holding company that has a North Carolina bank subsidiary and may accept reports of examination and other records from such authorities in lieu of conducting its own examinations. The Commissioner may enter into joint actions with other bank regulatory authorities having concurrent jurisdiction over any out-of-state bank holding company that has a North Carolina bank subsidiary or may take such actions independently to carry out its responsibilities under this Article and assure compliance with the provisions of this Article and the applicable banking laws of this State. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 13; 1993 (Reg. Sess., 1994), c. 599, s. 1.)

§ 53-217. Enforcement.

The Commissioner shall have the power to enforce the provisions of this Article through an action in any court of this State or any other state or in any court of the United States, as provided in G.S. 53C-8-12, for the purpose of obtaining an appropriate remedy for violation of any provision of this Article. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 14; 1993 (Reg. Sess., 1994), c. 599, s. 1; 2012-56, s. 16.)

§ 53-218. Nonseverability.

It is the purpose of this Article 17 to facilitate orderly development within North Carolina of banking organizations that have banking offices in more than one state. It is not the purpose of this Article to authorize acquisitions of North Carolina bank holding companies or North Carolina

banks by bank holding companies that do not have their principal place of business in this State on any basis other than as expressly provided in this Article. Therefore, if any portion of this Article pertaining to the terms and conditions for and limitations upon acquisition of North Carolina bank holding companies and North Carolina banks by bank holding companies that do not have their principal place of business in this State is determined to be invalid for any reason by a final nonappealable order of any North Carolina or federal court of competent jurisdiction, then this entire Article shall be null and void in its entirety and shall be of no further force or effect from the effective date of such order: Provided, however, that any transaction that has been lawfully consummated pursuant to this Article prior to a determination of invalidity shall be unaffected by such determination. (1983 (Reg. Sess., 1984), c. 1113, s. 1; 1993, c. 175, s. 15; 1993 (Reg. Sess., 1994), c. 599, s. 1.)